

Paul Beyersdorf

From: Brett Gallaway
Sent: Friday, August 16, 2019 10:48 AM
To: Yolanda Rivero
Cc: Jake Lader; OPHILLIPSON
Subject: Re: Espindola v Pizza Stop Rule 11 Letter

Additionally, please provide me with a redlined version of your proposed third amended complaint so I can see what, if any other amendments you have made.

From: Brett Gallaway
Sent: Friday, August 16, 2019 10:26:45 AM
To: Yolanda Rivero
Cc: Jake Lader; OPHILLIPSON
Subject: Re: Espindola v Pizza Stop Rule 11 Letter

Yolanda,

What explanation do you or your client have for filing a clearly fraudulent complaint, twice, in this action?

If you cannot provide us with an explanation, we do not consent to your filing a third amended complaint and you will need to make a motion which we will oppose.

From: Yolanda Rivero <yrivero@faillacelaw.com>
Sent: Friday, August 16, 2019 10:14:00 AM
To: Brett Gallaway
Subject: RE: Espindola v Pizza Stop Rule 11 Letter

Brett,

This email is in response to your letter dated August 12, 2019.

I reviewed the letter and as such, we are amending the complaint. I have attached a copy of the third amended complaint for your review. Specifically, I have corrected the last date of employment for Plaintiff Espindola at the Lenox Avenue location.

Do you consent?

Best,

Yolanda Rivero, Esq.
Michael Faillace & Associates, P.C.
One Grand Central Place
60 East 42nd Street, Suite 4510
New York, NY 10165
(tel) 212-317-1200
(fax) 212-317-1620
yrivero@faillacelaw.com

From: Yolanda Rivero
Sent: Wednesday, August 14, 2019 6:18 PM
To: 'Brett Gallaway' <BGallaway@mclaughlinstern.com>
Subject: RE: Espindola v Pizza Stop Rule 11 Letter

Brett,

I've been in a mediation almost all day. I found out my mediation tomorrow was adjourned due to defendant's having a family emergency and will be able to get you a draft for our other matter tomorrow (as promised).

As far as your assumption that I don't need to play phone tag with my client, I think in light of your prior accusations, that I most certainly need to speak directly to my client. Speaking to Michael or Daniel won't get me the information I need to address this. I had not personally met with this plaintiff when he came in as I was not working at this firm, and it would behoove me to speak with him on this matter. As you are aware, I am a fluent Spanish speaker and can get the information necessary to address this. Your continued protestations that I need only speak with Michael or Daniel don't address the matter at hand. Further, I cannot believe you would make that suggestion especially in light of your recent accusation that I did not communicate with a prior client.

As far as not needing additional time, you again are incorrect. I received your letter on Monday afternoon at 4:11 p.m. and you were aware that I was addressing one of our other cases (trying to reach the remaining clients to inform them on their case) as well as staying late to address other cases unrelated to ours. I also told you that I would be engaged in mediations Tuesday, Wednesday, and Thursday, and that I could address issues on Thursday. This was all communicated to you via email, so I am not sure why (knowing all this) you are imposing an arbitrary, unreasonable deadline. This case, as you are aware, is in its preliminary stages and your clients have not answered (which we both stipulated to extending the time to answer). No discovery has occurred either. At this point, I understand you want this to move forward (as do I), but I need to confirm with my client and if there are any issues, I need to address them by tomorrow. I left another message for my client, and even spoke with his relative who told me he will have my client call me tomorrow morning as he is at work now and can't answer his phone.

As far as settlement discussions, in light of this, I will have a better perspective and a settlement demand by tomorrow.

But to be fair, I will not be bullied by you deadline and will respond tomorrow.

Best,

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yrivero@faillacelaw.com

From: Brett Gallaway [<mailto:BGallaway@mclaughlinstern.com>]
Sent: Wednesday, August 14, 2019 10:51 AM

To: Yolanda Rivero <yrivero@faillacelaw.com>
Subject: RE: Espindola v Pizza Stop Rule 11 Letter

Yolanda,

For Pizza Stop, you just need to confirm whether it is the same Plaintiff, which it clearly appears to be. You don't need to play phone tag with the client and presumably can do this by speaking with your colleagues, from your office, who filed the Complaint. If it is the same person, either the Complaint in our matter or the *Panchos* case is fraudulent and your firm settled the *Panchos* case based on a known misrepresentation to the Court and opposing counsel. This is concerning on multiple levels and you will have to make the appropriate application to the Court in our case. We reserve all rights to raise this issue with the Court. If you would like to explore early resolution of this matter now, I will consider your reasonable settlement offer.

Considering that the *Panchos* settlement is due to be paid shortly, I'm not sure why you need additional time before I send this letter to *Panchos* counsel. Just ask Daniel or Michael. You should have done this when you received our Rule 11 Letter on Monday. As a sign of good faith, I will extend the time that I intend to send the letter to *Panchos* counsel until 3pm today. That should give you ample time to contact your colleagues, to the extent you have not already done so, or come up with a reasonable resolution in our matter.

From: Yolanda Rivero <yrivero@faillacelaw.com>
Sent: Wednesday, August 14, 2019 10:11 AM
To: Brett Gallaway <BGallaway@mclaughlinstern.com>
Subject: RE: Espindola v Pizza Stop Rule 11 Letter

Brett,

As you saw from ECF, CookUnity was dismissed with prejudice.

With respect to Uncle Paul's. I expect to send you a draft of the settlement agreement and fairness letter tomorrow for your review.

With respect to Pizza Stop, I have called my client to discuss and due to my being in mediation, we have played phone tag. I will need to leave shortly for today's mediation, but I expect this one will go much quicker and I can then speak with my client this afternoon and address your letter. Would you allow me to respond to you later today before you file your letter?

Best,

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yrivero@faillacelaw.com

From: Brett Gallaway [<mailto:BGallaway@mclaughlinstern.com>]
Sent: Tuesday, August 13, 2019 10:47 AM

To: Yolanda Rivero <yrivero@faillacelaw.com>

Subject: RE: Espindola v Pizza Stop Rule 11 Letter

Yolanda,

Will CookUnity be dismissed with prejudice, thereby alleviating the need for us to seek, and for you to defend against the sanctions motion? I've asked you that question now no less than 6 times without an answer. Please simply respond directly to that outstanding issue and I'll move on.

I understand that you are busy, as am I, and am fully cognizant that you have other cases. However, your continued assurances that you will respond to me in our various matters, that all go ignored, is frustrating to say the least.

Thank you for prioritizing the Uncle Paul's settlement, but I'm sure I'll have nominal comments on that as I've settled many cases with your firm in the past. If you don't get around to that until next week or the week of the 26th, that's fine. We are not in an immediate rush in that matter.

Good luck in your mediation and please let me know about the Cookunity and Pizza Stop issues, which should be simple and quick responses.

Thank you.

From: Yolanda Rivero <yrivero@faillacelaw.com>

Sent: Tuesday, August 13, 2019 10:15 AM

To: Brett Gallaway <BGallaway@mclaughlinstern.com>

Subject: RE: Espindola v Pizza Stop Rule 11 Letter

Brett,

Unfortunately for me, Daniel and Michael are not in the office right now. And I have to leave as soon as my client arrives so we can leave for our mediation. I've called the client in question and unfortunately got his voice mail. I will follow up when I return. I will then address this with you.

As far as CookUnity, I will be filing the voluntary dismissal later today.

And I already addressed Uncle Paul's Pizza in my prior email.

I also don't appreciate your statement "you appear to have time to draft the settlement agreement". As a professional courtesy (since you said were leaving the country and seem to be the only attorney in charge of Uncle Paul's), I said I would send a draft by Thursday. Even though I have a lot of other pressing cases, I was trying to be courteous to you and the fact that you will be away, but it seems to be misconstrued by you that I have nothing to do but address the cases I have with you.

Anyway, we'll touch base later.

Best,

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yrivero@faillacelaw.com

From: Brett Gallaway [<mailto:BGallaway@mclaughlinstern.com>]
Sent: Tuesday, August 13, 2019 9:55 AM
To: Yolanda Rivero <yrivero@faillacelaw.com>
Subject: RE: Espindola v Pizza Stop Rule 11 Letter

Yolanda,

This only involves a quick phone call, email or in-person conversation with your colleague Daniel Tannenbaum and/or Michael Faillace. Both of whom are listed as attorneys of records, from your firm, representing what appears to be the same Plaintiff in conflicting litigations. It shouldn't be very difficult to figure out if your firm represented the same person in overlapping litigations. As indicated, I intend to send my Rule 11 letter to Defendants' counsel in *Panchos* by tomorrow at noon if I don't hear back from you before then.

Also, considering you've now indicated that you'll be occupied with mediations this week. Can you give me the courtesy of responding to my CookUnity email from last night. You appear to have time to draft the settlement agreement in our Uncle Paul's case, so I anticipate you'll have time to respond to the CookUnity and Pizza Stop sanction issues as requested.

From: Yolanda Rivero <yrivero@faillacelaw.com>
Sent: Tuesday, August 13, 2019 9:46 AM
To: Brett Gallaway <BGallaway@mclaughlinstern.com>
Subject: RE: Espindola v Pizza Stop Rule 11 Letter

Brett,

I will look into this matter and get back to you as soon as possible. As I informed you, I have mediations back to back, and must leave shortly for court.

Best,

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yrivero@faillacelaw.com

From: Brett Gallaway [<mailto:BGallaway@mclaughlinstern.com>]
Sent: Monday, August 12, 2019 9:05 PM
To: Yolanda Rivero <yrivero@faillacelaw.com>
Subject: Re: Espindola v Pizza Stop Rule 11 Letter

Yolanda,

I feel compelled to share this letter with Defendants' counsel in the *Panchos* matter. Before I do, I will give you until this Wednesday at 12:00pm to confirm that the plaintiff in both actions is not the same person.

From: Brett Gallaway
Sent: Monday, August 12, 2019 4:11:26 PM
To: Yolanda Rivero
Subject: Espindola v Pizza Stop Rule 11 Letter

Yolanda,

Please see the attached correspondence related to the Pizza Stop matter.

Brett R. Gallaway, Esq.
Partner
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260 Madison Avenue
New York, NY 10016
Telephone: (212) 448-1100
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